UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,868	03/07/2007	Takashi Mori	Q94502	3900

23373 7590 05/13/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
WILLIAMS, LELA S	

ART UNIT	PAPER NUMBER
4132	

MAIL DATE	DELIVERY MODE
05/13/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,868	MORI ET AL.	
	Examiner	Art Unit	
	LELA S. WILLIAMS	4132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-8 and 10-12* is/are rejected.

7)☒ Claim(s) *4,5,9 and 13-15* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

2. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

3. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b)

5. Claims 4, 5, 9,13,14,15 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 10 and 11 are indefinite in that it is not clear as to the scope of "an amount from 0.01 to 3.0%" and "0.05 to 1.0%". Is it percent by weight or volume?

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 1, 2, 3,6,7,8,10,11,12, rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 2941416B2 and Chinese Patent 1256954A.

10. Regarding claims 1, 2 and 3, JP 2941416B2 discloses a method for removing hydrogen sulfide odors by carrying out a freezing treatment and a heating treatment to raw materials containing proteins, with secondary materials, after a treatment at a high temperature under elevated pressure with a twin screw extruder (see Chinese Patent Office, Office action claims 1-3; col. 3 line 19- col.4 line 30 and machine translation pg. 2, line 6 and pg.5,line 4).

11. Japanese Patent 2941416B2 does not expressly disclose using an ascorbic acid analog to control the hydrogen sulfide odor.

12. Chinese Patent 1256954A discloses a filtering agent for deodorization, which can remove hydrogen sulfide, and is a composition comprising ascorbic acid and ferrous compound to produce an iron salt of ascorbic acid that can be used to remove hydrogen sulfide (claims 1-5; and specification line 3).

13. It would have been obvious to a person skilled in the art at the time of the invention to have prepared a solution containing an ascorbic acid analog in order to control the hydrogen sulfide odor in the production of a food material.

14. A person of ordinary skills would have been motivated to use a solution containing ascorbic acid since it is known that it can be effective in controlling odors.

15. Regarding claims 6, 7, and 8, JP 2941416B2 discloses a method for preparing food materials having a fibrous texture produced by a freezing treatment and a heating treatment to raw materials containing proteins (i.e. fish), and adding secondary materials, at a high temperature under elevated pressure with a twin screw extruder (see Chinese Patent Office, Office action claims 1-3; col. 3 line 19- col.4 line 30 and machine translation pg. 2, line 6 and pg.5,line 4)

16. Japanese Patent 2941416B2 does not expressly disclose using an ascorbic acid analog.

17. Chinese Patent 1256954A discloses a filtering agent for deodorization, which can remove hydrogen sulfide, and is a composition comprising ascorbic acid and ferrous compound to produce an iron salt of ascorbic acid that can be used to remove hydrogen sulfide (claims 1-5; pg. 3, line 3- pg. 4, line 12).

18. It would have been obvious to a person skilled in the art at the time of the invention to produce a food material having a fibrous texture which comprises an ascorbic acid analog.

19. A person of ordinary skills would have been motivated to use a solution containing ascorbic acid since it is a well know additive in the food industry.

20. Regarding claims 10, 11, and 12, JP 2941416B2 discloses a method for producing a deodorized food material having a fibrous texture, and the method comprises carrying out a high

temperature treatment to fish meat with an extruder, and secondary materials can be added to the fish meat and the hydrogen sulfide odor can be controlled (see Chinese Patent Office, Office action claims 1-3; col. 3 line 19- col.4 line 30 and machine translation pg. 2, line 6 and pg.5,line 4).

21. Japanese Patent 2941416B2 does not expressly disclose using an ascorbic acid analog or a percentage thereof.

22. Chinese Patent 1256954A discloses a filtering agent of ascorbic acid and ferrous compound for deodorization, which can remove hydrogen sulfide. The ascorbic acid and ferrous compound can be combined together to form an aqueous solution of ferrous ascorbate and that iron salt of ascorbic acid can be used to remove hydrogen sulfide (claims 1-5; pg 3 line 3- pg. 6, line 23).

23. The percent of the ascorbic acid used can be considered a known result effective variable whose determination would have been within the ambit of one of ordinary skill in the art at the time of invention without undue experimentation. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." See *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). The discovery of an optimum value of a known result effective variable, without producing any new or unexpected results, is within the ambit of a person of ordinary skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980) (see MPEP § 2144.05, II.).

24. It would have been obvious to a person skilled in the art at the time of the invention to have arrived at such amounts as result effective variables.

25. A person of ordinary skill would be motivated to determine the amount of ascorbic acid analog used based on the amount of raw material used.

Conclusion

26. Examiner relied upon verbal translation/conformation of foreign documents and Chinese Office Action for Japanese Patent citations. Written translation has been requested.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LELA S. WILLIAMS whose telephone number is (571)270-1126. The examiner can normally be reached on Monday to Thursday from 7:30am-5pm (EST).

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike LaVilla can be reached on 571-272-1539. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. S. W./
/LELA S. WILLIAMS/
Examiner, Art Unit 4132
27 April 2009

/Milton I. Cano/
Supervisory Patent Examiner, Art Unit 4122